IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10189 OF 2004

1. Shri Vasant Ganu Patil and ors. ..Petitioners

Vs.

1. Shri Hemendra Wamangiri Gosavi and ors. ..Respondents

Mr. M.D. Parab for petitioners.
Mr. Shashi Jain with Mrs. Naina Desai for respondent no.1.
Mr. V.P. Patil for respondent nos.2 to 6.
Mr. R.M. Patne, AGP for respondent nos.7 and 8.

CORAM: B.H. MARLAPALLE, J.

Date : July 31, 2006.

P.C.:

1. This petition challenges the order passed by the learned District Judge, Thane on 14/10/2004 constituted the Board of Trustees of the public trust by name "Shri Vajreshwari Yoginidevi Public Trust" at Vajreshwari, Taluka Bhiwandi, District Thane for a period of five years i.e. from 16/8/2004 to 15/8/2009. The learned District Judge has directed that Shri Hemendra Wamangiri Gosavi, resident of Vajreshari shall continue as a hereditary trustee and

in addition, the following four persons have been appointed as trustees for a period of five years from the date they take charge of the Trust Office:

(a) Shri Niranjan Jaswant Rajani
(b) Shri Ramchandra Prabhakar Shenoy
(c) Smt. Uma Dattakumar Raikar and
(d) Shri Hemant Gamanlal Mehta

2. By the order dated 16/8/1999 passed in the Misc. Application No.49 of 1999 the following five trustees were appointed by the learned District Judge for a period of five years i.e. upto 15/8/2004 and they were:

(a) Shri Niranjan Jaswant Rajani
(b) Shri Suresh K. Oak
(c) Shri Ramchandra Prabhakar Shenoy
(d) Smt. Uma Dattakumar Raikar
(e) Shri Hemendra Wamangiri Gosavi

3. It appears that the trust submitted an

application on 7/6/2004 for appointment of trustees for a further period of five years and the same was registered as Civil Misc. Application No.121 of 2004 before the District Court at Thane. As per the scheme framed and approved by this court for the same trust, it is the learned District Judge, Thane, who appoints trustees for a term of five years and before such term expires, an application is submitted by the trust for appointment of the trustees for a further term of five years.

4. A public notice was released and it was published in the daily "Maharashtra Times" a leading Marathi daily in its issue dated 15/7/2004 inviting applications for persons who were desirous of being appointed as trustees of the said trust and in all 56 such applications were received along with their bio-data and other documents. Most of them appeared in persons while others were represented through an Advocate before the learned District Judge. These applications were at Exhs.6 to 61 and the applicants were heard on 23/9/2004 and 6/10/2004. At the same time a list of all these applicants was forwarded to

the Charity Commissioner of Maharashtra as well as the Commissioner of Police, Thane, Commissioner of Police, Mumbai and the Superintendent of Police (Rural), Thane. The reports from all these authorities were received by the learned District Judge and they were all treated as confidential for ascertaining eligibility of the applicants for being appointed as trustees. After considering the credentials of all these applicants as well as the existing trustees, the learned District Judge was in favour of continuing the same trustees who were appointed by allowing Misc. Application No.49 of 1999 and more so when nothing adverse was reported against any of these trustees regarding their character, integrity, efficiency or commitment to work for the trust. However, Shri Suresh K. Oak declined to continue as the trustee for another five years and, therefore, in his place the learned District Judge was pleased to appoint Shri Hemant Gamanlal Mehta, who is a resident of Mumbai. However, the learned District Judge noted that Mr. Mehta is a regular visitor to the temple of Shri Vajreshwari Yoginidevi and he had acquired various educational qualifications at Dale Carnegi Institute,

U.S.A. He is also certified by the Landmark Education Corporation, India in inquisitive conversation leading to empower others in unleashing their potential powerfully. On his interaction with Mr.Mehta, the learned District Judge found him as a man with genuine desire of being appointed as trustee and working for the benefit and progress of the trust. The learned District Judge also considered the credentials of the existing four trustees and found them preferable over the other applicants. The well reasoned order dated 14/10/2004 and challenged by the present petitioners, who were also applicants for being considered as trustees, does not call for any interference.

5. Mr. Patil the learned counsel appearing for the trust pointed out that the scheme of the trust empowers the learned District Judge at Thane to appoint trustees for a period of five years and every time the trust has to apply to the learned District Judge well before the expiry of the existing term of five years. The learned District Judge has noted in the impugned order that he considered the following three qualities to ascertain suitable and committed

persons for being appointed as the trustees:

(a) Clean record.
(b) Educational and other qualifications.
(c) Experience of having worked as trustee.

Though the appointments of trustees are subject to the satisfaction of the learned District Judge, it may be worthwhile to consider some of the following factors in addition to the three qualities referred to hereinabove for future appointments:-

(a) Health conditions and age.
(b) The Association of the applicant with any other public trust, more particularly when such a trust also takes substantial time.
(c) A good combination of experience and new blood so that same old faces do not continue in the every term of five years.

6. The learned District Judge may also consider

for future appointments, whether any particular trustee should not be continued for more than two consecutive terms or in any case more than 10 years total as a trustee, except hereditary/permanent trustee.

7. Save and except the above suggestions, the petition is rejected summarily.

(B.H. Marlapalle,J.)